



# Whatcom Conservation District

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December 5, 2005

Via email

Mr. Kevin Hancock  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

RE: Comment to Draft October 19, 2005 General Permit for CAFO's

Dear Mr. Hancock:

The Whatcom Conservation District is formally submitting these comments to the above referenced. Some were discussed with you at the Mt. Vernon workshop by Chris Clark, Engineer in Training, Animal Waste System Specialist. You should contact him directly should you have questions.

Definitions: 10. "Multi-year phosphorus application"... "until the applied phosphorus has been removed from the field via harvest"...

-Soil Test P and applied phosphorus (manure test P) do not equal available phosphorus or removable phosphorus. Allow planner to evaluate phosphorus needs and application schedules. **Adopting the approval checklist developed as part of RCW 90.64, the planner must develop the plan to clearly describe when nutrients can and should not be applied. A copy of the checklist is attached.**

**New Definitions:** Please add following definitions to the Permit.

**"Approval"** If a Nutrient Management Plan contains the elements identified in S3 a conservation district shall approve the plan no later than ninety days after receiving the plan.

**"Certification"** An approved plan shall be certified by a conservation district and a permittee when the elements necessary to implement the plan have been constructed or otherwise put in place, and are being used as designed and intended.

- The Revised Code of Washington describes the "Approval/Certification" process for nutrient management plans. This has proved to be an effective model that should continue for all livestock operators. It would be a major setback to retreat from the current scheme for dairy producers. There is no rational distinction to be made between dairy producers and other livestock operators. The General permit should be consistent with State Law.

S2B5b "change in character of effluent" triggers public notice and SEPA Requirement.

-This general language requirement would increase workload, cost and time for implementing Best Management Practices. In practice a change in character of effluent happens throughout the year with seasonal and climate differences and cannot be fully described in plan. **This requirement should be removed and left to county building and codes departments.**

S3A1b Equivalent best management practices may be used ...if "they are approved by Washington Department of Agriculture".

-Department Agriculture Staff does not have technical staff with this expertise or approval authority at this time. In order to apply for permit, plan development including equivalent best management practices approval must be completed and installed. **Identify specifically who to send equivalent best management practices request to, otherwise leave the alternative practices approval with the Conservation Commission by adopting the approval checklist developed as part of RCW 90.64.**

S3A3bi "*Determination of application rates....plan must include assessment ...to address...timing and method of application*".

-Change in character of effluent happens throughout the year with seasonal and climate differences and cannot be fully described in plan. **Adopting the approval checklist developed as part of RCW 90.64, the planner must address major factors influencing "character of effluent" and provide balance sheet for crops.**

S3A3eii *Setback requirements.* Alternative practices...

-Current NRCS 393 filter strip requirement is 20 ft. minimum. Does this BMP need to be approved as an equivalent best management practice? **Identify specifically who to send equivalent best management practices request to, otherwise leave the alternative practices approval with the Conservation Commission by adopting the approval checklist developed as part of RCW 90.64.**

### *S3B Nutrient Management Plan Approval & Implementation*

- "Coverage under this general permit constitutes initial approval of the nutrient management plan". Coverage should follow only after the nutrient management plan has been "approved". We have developed, approved and certified hundreds of nutrient management plans. Some of these plans were developed by outside consultants. Those needed a great deal of review and comment in order to meet the statutory elements. To provide blanket "approval" in the manner presented by this rule does not ensure the adequacy of the plan in terms of meeting permit requirements.

- "Certification" is the next essential step. We have assisted hundreds of dairy producers to implement their plans. Plans don't protect water quality rather; it is the implementation of the plan. This is not intuitive! They need assistance, monitoring and review to accomplish this. This has proven to be effective and should not be abandoned. Further, the General Permit should include this step to be consistent with State law respecting dairies.

S3C *Nutrient Management Plan Compliance*

-Change in character of effluent happens throughout the year with seasonal and climate differences and cannot be fully described in plan. Times and concentrations of land applications must change to accommodate climate and management. **Adopting the approval checklist developed as part of RCW 90.64, the planner must address major factors influencing "character of effluent" and provide balance sheet for crops. In addition, the planner must develop the plan to clearly describe when nutrients can and should not be applied.**

S3D *Nutrient Management Plan Updates*

-Changes in ground water quality maybe due to time lag or other sources of contamination. Adaptive management should be used as a tool between planner and CAFO. Crop rotation and sequence may not be reflective in plan. **Updates should be necessary only when balance of nutrients or identified practices have changed.**

S4C2b *annual fall test*

-Westside environmental report card test is subject to variable environmental conditions that can make results difficult to link to management activities. It is not determinative but can be useful as a management (not regulatory) tool. Eastern Washington producers would benefit from using current late winter/spring sampling protocol in accordance with university recommendations. **Adopting the approval checklist developed as part of RCW 90.64, the planner must describe soil testing procedures.**

S5 "...post construction documents signed and stamped by a ...professional engineer (PE), who made on-site construction inspections"

- This fails to recognize that there are NRCS/CD technical personnel who have the expertise to and are working under a PE. It is unlikely that PE will provide the oversight contemplated by this requirement without presenting an undue burden. NRCS personnel work under the state engineer out of Spokane. **Allow storage facilities to be signed off by personnel with job approval authority or PE.**

Mr. Kevin Hancock  
Re: Comments to Draft October 19<sup>th</sup> General Permit for CAFOs  
December 5, 2005  
Page 4 of 4.

G1 "The application... more frequently than, or at a concentration in excess of that authorized by this general permit shall constitute a violation..."

-This ignores that farming occurs in a dynamic, natural environment. Change in character of effluent happens throughout the year with seasonal and climate differences and cannot be fully described in plan. Times and concentrations of land applications must change to accommodate climate and management. It is impossible to anticipate all the combinations of rainfall, temperature, growing season with precision. You are setting up a situation where folks cannot comply with their plan. **Adopting the approval checklist developed as part of RCW 90.64, the planner must address major factors influencing "character of effluent" and provide balance sheet for crops. In addition, the planner must develop the plan to clearly describe when nutrients can and should not be applied.**

**G12. "This permit may be modified... B. When Effluent limitations guidelines are promulgated..."**

- The permit should be modified when the ELGs are promulgated. The ELGs should represent AKART. Presently there is a zero discharge tolerance for bacteria. It may be that this is more stringent than is appropriate. Using ELGs should ensure a responsible level of environmental protection without an undue amount of regulation.

Thank you for considering these comments. Again, if you have questions, please call Chris Clark, EIT, at: (360) 354-2035 x 124 or email at: [cclark@whatcomcd.org](mailto:cclark@whatcomcd.org)

Sincerely yours,

A handwritten signature in black ink, appearing to read 'G. Boggs', with a stylized flourish at the end.

George J. Boggs  
District Manager